

SECOND REGULAR SESSION

SENATE BILL NO. 736

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR LOUDON.

Pre-filed December 1, 2003, and ordered printed.

TERRY L. SPIELER, Secretary.

3067S.011

AN ACT

To amend chapter 34, RSMo, by adding thereto five new sections relating to establishment of the open contracting act.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 34, RSMo, is amended by adding thereto five new sections, to be known as sections 34.203, 34.206, 34.209, 34.212, and 34.215, to read as follows:

34.203. The provisions of sections 34.203 to 34.215 shall be known and may be cited as the "Open Contracting Act".

34.206. The provisions of sections 34.203 to 34.215 are to prohibit public agencies from imposing certain labor requirements as a condition of performing public works.

34.209. The state and political subdivisions, agencies, and instrumentalities thereof, when engaged in procuring products or services or letting contracts for manufacture of public works, or overseeing such procurement, construction, or manufacture, shall ensure that bid specification, project agreements, and other controlling documents, entered into, required or subject to approval by the subdivision, agency, or instrumentality, do not:

(1) Require bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations on the same or related projects;

(2) Discriminate against bidders, offerors, contractors, or subcontractors for refusing to become or remain signatories or otherwise adhere to agreements with one or more labor organizations on the same or related construction projects; or

(3) Require any bidder, offeror, contractor, or subcontractor to enter into, adhere to, or enforce any agreement that requires its employees as a condition of employment to:

(a) Become members of or become affiliated with a labor organization; or

(b) Pay dues or fees to a labor organization, over an employee's objection, in excess of the employee's share of labor organization costs relating to collective bargaining, contract administration, or grievance adjustment.

34.212. 1. The state and political subdivisions and any agencies or instrumentalities thereof shall not issue grants or enter into cooperative agreements for construction projects a condition of which requires that bid specifications, project agreements, or other controlling documents pertaining to the grant or cooperative agreement contain any of the elements specified in section 34.209.

2. The state and political subdivisions or any agencies or instrumentalities thereof shall exercise such authority as may be required to preclude a grant recipient or party to a cooperative agreement from imposing any of the elements specified in section 34.209 in connection with any grant or cooperative agreement awarded or entered into.

34.215. Any interested party, which shall include a bidder, offeror, contractor, subcontractor, or taxpayer, shall have any standing to challenge any bid specification, project agreement, controlling document, grant, or cooperative agreement which violated the provisions of sections 34.203 to 34.215, and shall be awarded costs and attorney's fees in the event that the challenge prevails.

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